

AMENDED IN ASSEMBLY AUGUST 18, 2003

AMENDED IN ASSEMBLY JULY 10, 2003

AMENDED IN ASSEMBLY JULY 2, 2003

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE MAY 6, 2003

SENATE BILL

No. 704

Introduced by Senator Florez

(Coauthors: Assembly Members Jerome Horton, La Malfa, Levine, Reyes, Richman, and Wolk)

February 21, 2003

An act to repeal Part 3 (commencing with Section 1101) of *Division 1 of the Food and Agricultural Code*, and to add Section 41606 to the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 704, as amended, Florez. Air quality: agricultural burning.

(1) Under existing law, each air pollution control district and air quality management district is authorized to establish a permit system that requires, except as specified, that before any person builds, erects, alters, replaces, operates, or uses any article, machine, equipment, or other contrivance that may cause the issuance of air contaminants, the person obtain a permit from the air pollution control officer of the district.

Existing law until January 1, 2004, establishes the Agricultural Biomass-to-Energy Incentive Grant Program, which permits air districts, as defined, to apply to the Technology, Trade, and Commerce

Agency to receive grants to provide incentives to facilities that convert qualified agricultural biomass, as defined, to fuel.

Under the Public Utilities Act, the Public Utilities Commission requires electrical corporations to identify a separate rate component to fund in-state operation and development of existing and new and emerging renewable resources technologies. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing law requires specified electrical corporations to collect specific amounts to support in-state operation and development of existing and new and emerging renewable resources technologies. Existing law also requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected for in-state operation and development of existing and new and emerging renewable resources technologies into the Renewable Resource Trust Fund, a continuously appropriated fund, to accomplish these purposes.

This bill would repeal the Agricultural Biomass-to-Energy Incentive Grant Program, and instead, would require the Energy Commission, in consultation with the California Environmental Protection Agency, and upon determining the project is eligible for funding, to provide incentives to a facility, as defined.

(2) This bill would require the Energy Commission, upon determining the project is eligible for funding pursuant to the Renewable Resource Trust Fund or upon appropriation in the annual Budget Act, to allocate \$6,000,000 from that fund for the 2003–04 fiscal year, to provide incentives to a facility, to increase its utilization of qualified agricultural biomass.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Part 3 (commencing with Section 1101) of the
- 2 Food and Agricultural Code is repealed.
- 3 SEC. 2 Section 41606 is added to the Health and Safety Code,
- 4 to read:
- 5 41606. (a) It is the intent of the Legislature to reduce air
- 6 pollution from open field burning in the state and to improve air
- 7 quality and protect the public health through new incentives for



1 biomass facilities to increase their use of agricultural waste that
2 would otherwise be burned in open fields in the state.

3 (b) For purposes of this section:

4 (1) “Qualified agricultural biomass” means agricultural
5 residues that *are purchased after July 1, 2003, that* historically
6 have been open-field burned in the jurisdiction of the air district
7 from which the agricultural residues are derived, as determined by
8 the air district, excluding urban and forest wood products, that
9 include either of the following:

10 (A) Field and seed crop residues, including, but not limited to,
11 straws from rice and wheat.

12 (B) Fruit and nut crop residues, including, but not limited to,
13 orchard and vineyard pruning and removals.

14 (2) “Facility” means any California site that meets all of the
15 following criteria:

16 (A) As of July 1, 2000, converted and continues to convert
17 qualified agricultural biomass to energy, or that operated prior to
18 July 1, 2000, converting qualified agricultural biomass to energy,
19 was closed for a period of time but maintained all applicable air
20 quality permits during that closure, and is ready to reopen on or
21 before June 30, 2001, and, in both cases, the conversion results in
22 lower oxides of nitrogen (NO_x) emissions than would otherwise
23 be produced if burned in the open field during the ozone season,
24 as determined by the air district in which the site operates.

25 (B) Does not produce electricity for sale to a public utility
26 pursuant to a contract with that public utility, or, if the site does
27 produce electricity for sale to a public utility pursuant to a contract
28 with that public utility, the site does not qualify for fixed energy
29 prices established prior to June 30, 2000, under the terms of that
30 contract at the time the application for the grant is made.

31 (C) Is permitted with best available control technology to
32 reduce emissions, has emissions control equipment in good
33 working order, and is in compliance with its operating permit.

34 ~~(D) Burns more than 50 percent qualified agricultural biomass~~
35 ~~or demonstrates~~

36 (D) *Demonstrates* a significant net increase in utilization of
37 qualified agricultural biomass as compared to usage without grant
38 moneys pursuant to this section. A “significant net increase”
39 means an increase of at least 10 percent in purchases of qualified
40 agricultural biomass above the average annual tonnage purchased

1 by the facility in the previous five years of operation prior to the
2 effective date of this section.

3 (c) (1) The State Energy Resources Conservation and
4 Development Commission, in consultation with the California
5 Environmental Protection Agency, ~~shall~~ upon determining the
6 project is eligible for funding, *shall* provide incentives to a facility,
7 consistent with this section.

8 (2) *In providing incentives pursuant to this section, until the*
9 *State Energy Resources Conservation and Development*
10 *Commission adopts specific guidelines, the State Energy*
11 *Resources Conservation and Development Commission shall*
12 *provide incentive payments in the amount of ten dollars (\$10) for*
13 *each ton of qualified agricultural biomass received for conversion*
14 *to energy. The State Energy Resources Conservation and*
15 *Development Commission may increase the incentive payment for*
16 *types or sources of qualified agricultural biomass that require*
17 *greater incentives to achieve meaningful increases in usage by*
18 *facilities, as determined by the State Energy Resources*
19 *Conservation and Development Commission.*

20 (3) Notwithstanding any other provision of law, the receipt of
21 incentives pursuant to this section does not make a facility
22 ineligible for any other production subsidy, rebate, buydown, or
23 other incentive funded through electricity surcharges, except that
24 receipt of incentives funded through electricity surcharges shall
25 preclude receipt of biomass-to-energy incentives financed by the
26 General Fund.

27 SEC. 3. Upon determining the project is eligible for funding
28 under the Renewable Resource Trust Fund, or upon appropriation
29 in the annual Budget Act, the State Energy Resources
30 Conservation and Development Commission shall allocate six
31 million dollars (\$6,000,000) from that fund for the 2003–04 fiscal
32 year, to provide incentives to a facility, as defined in Section 41606
33 of the Health and Safety Code, to increase its utilization of
34 qualified agricultural biomass as provided in Section 41606 of the
35 Health and Safety Code.

